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C O N F I D E N T I A L SECTION 01 OF 02 QUITO 000590

SIPDIS

OFFICIAL INFORMAL

WHA FOR ASSISTANT SECRETARY ROGER NORIEGA

E.O. 12958: DECL: 03/06/2015

TAGS: [PREL](#) [PGOV](#) [SNAR](#) [PTER](#) [EC](#) [CO](#) [KICC](#)

SUBJECT: OPENING ADDITIONAL ARTICLE 98 FRONTS

REF: 04 QUITO 3028

Classified By: Ambassador Kristie A. Kenney, Reasons 1.4 (b), (d)

[11.](#) (C) DEAL REMAINS FAR OFF: With Guinea-Bissau's February 2 signing, 99 countries have reached Article 98 agreements with the United States. Regrettably, we doubt it's Ecuador that cracks the century mark. Despite our numerous and varied overtures, the GoE continues to consider Article 98's political costs greater than its material benefits. Since our last update in December (Reftel), Ecuador's Congress has refused to consider the issue in serious committee or plenary debate. Media requested and received our Article 98 and ICC fact sheets, yet maintained their negative and inflammatory tone in the few stories surfacing since. The Foreign Ministry continues to dodge our calls. And President Gutierrez talks a good game but shows no willingness to risk his mandate over the issue.

[12.](#) (C) ASPA PAIN REAL: American Servicemember Protection Act sanctions have begun to hit hard. Especially impacted is "soft" assistance, where we and Ecuador most feel ASPA's bite. The International Military Education and Training program (IMET), for example, represents perhaps the most cost-effective manner to influence Ecuador's armed forces. ASPA mandated we suspend IMET in Ecuador, and while Milgroup has utilized other training programs to maintain outreach, theirs is at best a stop-gap alternative. We are concerned that other nations, especially China, have rushed to fill the gap.

[13.](#) (C) BUT SO IS THE PRESIDENT'S: Strife between Gutierrez and the opposition continues at a fever pitch, limiting the GoE's room to maneuver on Article 98. The president gained the upper hand in November, fighting off an impeachment attempt and initiating an impressive counterattack. Yet his majority remains wafer-thin and his focus self-preservation; little of substance is occurring now in Ecuador, save the ongoing debate on restoring legitimacy to its highest courts. Gutierrez agreeing to serious Article 98 negotiations would present his enemies a potent weapon to use against him in the battle for public opinion.

[14.](#) (C) ANOTHER EMBASSY TACK CHANGE COMING: We center our hopes on two recent developments. First, formal announcement of Nethercutt Amendment sanctions would propel Article 98 back into headlines, for better or worse (and we can't do worse than not talking at all). USAID programs here are well received, and imminent cutbacks might spur the GoE to reconsider their "ignore them, they'll go away" strategies. They might also spawn sanctions blowback, however, as we're using the same big stick to spur movement on TIP. We understand that Nethercutt guidance, currently under deliberation in Washington, might soon be released to posts, and will await its arrival before proceeding.

[15.](#) (C) Ecuador's naming of former Finance Minister Mauricio Pozo to head its DC embassy was a positive development. We enjoy excellent relations with the pragmatic, intelligent Pozo; he in turn has access to Gutierrez and is well known in Washington. At lunch March 8, I pressed the ambassador-designate for movement on Article 98. While we understood the political risks that visible Quito negotiations entailed, I told him, we encouraged that he engage early with key DoS and DoD interlocutors in the United States, to determine what sort of text might mutually satisfy. Assuming successful agreement, we are seeking Miami consultations for Pozo at Southcom HQ. I have suggested to Ecuador's military leaders that they concurrently lobby their newest envoy for movement on Article 98.

[16.](#) (C) AND HOW YOU MIGHT HELP OUT: Another option to throw out for your consideration: Secretary Powell, in Quito last June for the OAS General Assembly, discussed Article 98 with President Gutierrez. The Secretary referenced his earlier correspondence, which the Ecuadorian leader had not yet answered. Gutierrez told Powell a response was in the works; first, however, he was seeking a Congressional opinion on the legality and appropriateness of Article 98 negotiations. Congress has refused to give its opinion, preferring to let Gutierrez shoulder all the political risk. A follow-up piece from Secretary Rice to President Gutierrez, making reference

to the "unanswered Article 98 mail," might spark the GoE to re-engage. Any such letter should of course cover other components of the bilateral relationship with Ecuador, both positive and negative.

17. (C) A "deliverable" or two also might help in the fight for 98. Coming first to mind is the extradition/deportation portfolio where, despite some recent progress, we've seen none of the "corruptos" sent back (we will provide a summary of cases and statuses Septel). I realize they are complex undertakings and understand that our legal system provides detainees necessary protections. But watching a crook like Padre Carlos Flores, suspected of embezzling perhaps \$10 million, extend his stay at Krome to fifteen months by switching attorneys incessantly (and now requesting asylum) both riles me and damages the bilateral relationship. We argue that a interagency full- (or fuller) court press on deportations is vital.

18. (C) You might help us with Pozo as well. Agreement is going slow, mostly for bureaucratic reasons. This would present no problems except that media allege we are stalling, reasoning we "have something" on the capable official. We expect the Pozo request to reach the White House by March 18, and would much oblige your intercession on his behalf.

19. (C) Last up, and hardest to tackle in this time of competing priorities, are the imminent cutbacks in Ecuador-bound USG assistance, especially from the Andean Counter-drug Initiative (ACI) account. We depend heavily on ACI to fund Embassy activities on Ecuador's northern border, imperative if we hope to prevent Colombian conflict spillover's destabilizing effects. NAS sees its counter-drug funding nearly halved in out-years, for example. Ecuadorian media, perhaps tipped off by the GoE's Washington embassy regarding USG budget requests, have already talked of the coming assistance drop-off, "proof" that Washington's only Andean cares lie in Colombia. A re-look at Ecuador aid might tone down their vitriol.

10. (C) FINAL WORDS: Any and all elements of our action plan might kick-start stalled Article 98 talks. But our bottom line? We'll keep pushing, but prospects are limited until Gutierrez gets closer to the end of his term (January 2007). Ecuador's constitution prohibits sitting presidents from running for re-election, and a lame-duck Gutierrez just might be amenable to inking an accord.

KENNEY